

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: CHEN et al.

Serial No.: 10/774,584

Art Unit: 2165

Filed: 2/10/2004

Examiner: SYED, Farhan M.

Title: *Efficient Type Annotation of XML Schema-Validated XML Documents without Schema Validation*

SUPPLEMENTAL COMMUNICATION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Commissioner:

This is further to the Applicants' response filed December 19, 2006, in response to the Office Action mailed September 19, 2006.

In Applicants' previous response, it was shown that the Examiner had issued an improper 35 U.S.C. 102(e) rejection, as 35 U.S.C §102(e) deals with patents and NOT publications.

Additionally, in anticipation of a 35 U.S.C. §102(a) rejection from the Examiner, Applicants have hereby, via the supplemental communication, assert that the invention was not known by others, as the reference's disclosure was derived from Applicants' own work.

Under 35 U.S.C. §102(a), A person shall be entitled to a patent unless the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent. Applicants respectfully submit that the invention was not known by others, as the reference's disclosure was derived from Applicants' own work.

The cited paper titled "An efficient XML schema typing system" lists the following authors: Ning Wang, Peter S. Housel, Guogen Zhang, and Michael Franz. The instant application lists the following inventors: Yao-Ching Stephen Chen, Fen-Ling Lin, Ning Wang, Guogen Zhang. M.P.E.P. 2132.01 provides guidelines for Applicants in such a situation where an Applicant's disclosure of his or her own work within the year before the application filing data cannot be used against him or her under 35 U.S.C. §102(a). In re Katz, 687 F.2d 450, 215 USPQ 14 (CCPA 1982).

The M.P.E.P in the same section further states that where the Applicant is one of the co-authors of a publication cited against him or her application the rejection can be overcome by submission of a specific declaration by the Applicant establishing that the article is describing Applicant's own work.

In accordance with M.P.E.P. guidelines set forth in section 2132.01, each of the inventors of the instant application has executed a 37 C.F.R. §1.132 declaration stating the cited paper's disclosure was derived from Applicants' own work.

Since the publication to Wang et al. describes Applicants' own work, Applicants respectfully discourage the Examiner from issuing a 35 U.S.C. §102(a) rejection.

No request for extension of time or associated fee is required. However, the Commissioner is hereby authorized to charge any deficiencies in the fees provided to Deposit Account No. 09-0460.

If it is felt that an interview would expedite prosecution of this application, please do not hesitate to contact Applicants' representative at the below number.

Respectfully submitted,

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